IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)
THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No. 10479 of 2005

Between:

The Lodagalavani Palem Gram Panchayat, rep., by its Sarpanch, Sri Bammidi Suryanarayana, s/o late Appalaswamy,

aged 40 years, r/o Lodagalavani Palem Village& Panchayat, Anandapuram Mandal, Visakhapatnam District.

..... PETITIONER

AND

1.The District Collector, Visakhapatnam, Visakhapatnam District.
2.The Mandal Revenue officer, Anandapuram Mandal Revenue,

Visakhapatnam District.
3.The Vice-Chairman, Visakhapatnam Urban Development

Authority, Visakhapatnam-3.
4. Smt.Burle Durga @ Kanaka Durga, w/o Jayaram,
R/o./ Lodagalavanipalem Village, Anandapuram Mandal & Post,

Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the inaction on the part of the respondent No.1 to 3 in not taking action for cancellation of the D.Form patta obtained by the 4th respondent without any eligibility as landless poor and not cultivating the land so far and converting the land assigned for cultivation into house site by making unauthorized private layout and making construction of a building without any approved plan in spite of rejecting the application for permission by the petitioner as illegal, arbitrary, capricious, and consequently to direct the respondent No.1 to 2 to take steps for cancellation of the D.Form patta bearing No.28/92 dated 21-05-1987 and also direct the 3rd respondent-VUDA to take steps for demolition of the unauthorized and illegal construction of the house under progress in Survey No.308/2, within the limits Lodagalavanipalem Panchayat, Anandapuram Revenue Mandal, Visakhapatnam District, within the time stipulated by this Hon'ble Court.

Counsel for the Petitioner: SMT.N.(P).ANJANA DEVI, SATYANARAYANA

Counsel for the Respondent Nos.1 & 2 : GP FOR REVENUE

Counsel for the Respondent No.3: SMT.V.PREETI REDDY,S.C. FOR VUDA.

Counsel for the Respondent No.4: None appeared.

The Court at the stage of admission made the following :

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O R D E R :

This writ petition is filed by the petitioner aggrieved by the alleged inaction on the part of the respondents 1 to 3 in taking action for cancellation of the D-Form patta granted in favour of the fourth respondent and in preventing the fourth respondent from proceeding with the constructions on the said land.

The petitioner-Gram Panchayat made various allegations against fourth respondent, stating that she is not eligible for assignment of land and that she has obtained the building permission by making false representation. It is stated that in spite of the fact that the petitioner-Gram Panchayat passed a resolution on 05.03.2005, resolving that the fourth respondent is not eligible for assignment and refused the permission, she has been proceeding with the constructions. It is stated that in the circumstances, the petitioner-Gram Panchayat made representations to the District Collector as well as the Mandal Revenue Officer, bringing the above said aspects and requesting to cancel the patta granted in favour of the fourth respondent and also requesting to take necessary steps preventing her from making any constructions, but the respondents 1 to 3 are not taking any steps against the fourth respondent. Hence, this writ petition.

Having heard the learned Counsel for the petitioner, the learned Government Pleader for Revenue, appearing for the respondents 1 and 2 and the learned Standing Counsel, appearing for the third respondent, without expressing any opinion as to the correctness of the allegations made by the petitioner, the writ petition is disposed of directing the respondents 1 to 3 to consider the representation dated 11.04.2005 made by the petitioner and to pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this Order, after affording due opportunity to the 4th respondent to rebut the allegations made against her. Pending such

exercise, if the respondents 1 to 3 are *prima facie* satisfied that the land in question is assigned land and that the 4th respondent is not entitled to proceed with the alleged constructions, it is open to them to pass appropriate orders directing the 4th respondent to stop the constructions forthwith. No costs.

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G.ROHINI, J.

Dated: 28th April, 2005.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The District Collector, Visakhapatnam, Visakhapatnam District.
2.The Mandal Revenue officer, Anandapuram Mandal Revenue,

Visakhapatnam District.
3.The Vice-Chairman, Visakhapatnam Urban Development

Authority, Visakhapatnam-3.

4. Two C.Cs. to the Government Pleader for Revenue, High Court

Buildings, Hyderabad. (O.U.T.)
5. 2 CD copies

*Form-NIC-OGS/WP{**RS**}*

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.10479 OF 2005

ADVANCE ORDER : (Operative portion by wire)

Accordingly, without expressing any opinion as to the correctness of the allegations made by the petitioner, the writ petition is disposed of directing the respondents 1 to 3 to consider the representation dated 11.04.2005 made by the petitioner and to

pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this Order, after affording due opportunity to the 4th respondent to rebut the allegations made against her. Pending such exercise, if the respondents 1 to 3 are prima facie satisfied that the land in question is assigned land and that the 4th respondent is not entitled to proceed with the alleged constructions, it is open to them to pass appropriate orders directing the 4th respondent to stop the constructions forthwith. No costs.

(Order follows…. …….)

G.ROHINI, J.

Dated: 28th April, 2005.

NOTE:

1. Issue wire at party's cost.
2. After dispatching the wire, this bundle shall be sent to the Court Masters' Section immediately.

B/O

cs